only to a clear case of a purchase by the executor individually. In so equivocal a transaction as that of the principal case, the heirs should at least have been allowed the usual presumption in favor of a discharge and not a purchase.

C. R. W.

INJUNCTION—SUNDAY PICTURE SHOW—ENFORCEMENT OF INVALID ORDINANCE—ADEQUACY OF LEGAL REMEDY.—KLINGER V. RYAN, 153 N. Y. S. 937.—*Held,* injunction will not issue enjoining the chief of police of a city from arresting the proprietor of a picture show under an invalid ordinance forbidding Sunday exhibitions, inasmuch as the proprietor has a remedy at law.

The issuance of an injunction depends primarily on the adequacy of a remedy at law, for when the latter exists equity will not interfere, *Klinesmith v. Harrison,* 18 Ill. App. 467; *Willis v. Staples,* 30 Hun. (N. Y.) 644. Equity, however, will act where irreparable damage will be done to plaintiff's business. *Hale v. Burns,* 91 N. Y. S. 929; *Dobbens v. Los Angeles,* 195 U. S. 223. Accordingly a municipality and its officials will be enjoined from acting under a void ordinance where property rights will be injured and damages will not compensate. *Morris Canal Co. v. Jersey City,* 12 N. J. Eq. 252. It is well settled that police officers will not be enjoined from performing their duties in excess of general police power, even though done in an oppressive manner. *Sterman v. Kennedy,* 15 Abb. Pr. (N. Y.) 201; *Olympia Ath. Club v. Speer,* 29 Colo. 158. Nor even to the injury of the plaintiff's business by warning the public of its character, if done in good faith. *Gilbert v. Mickli,* 4 Sanford Chan. (N. Y.) 357. It is for the public good that the police officers be allowed to act without restraint in the performance of their duties, as what might be a trespass on one occasion would be lawful on another. *Pon v. Wiltman,* 147 Cal. 280; *Delaney v. Flood,* 183 N. Y. 323. If the principal case involved only the prevention of an arrest there is no doubt that the court acted correctly in refusing to issue an injunction. *Burns v. McAdoo,* 99 N. Y. S. 51. On the other hand, if damages for injury to his business were caused by the closing of the Sunday picture shows under the invalid ordinance, the proprietor had an adequate remedy at law against the officer acting under the ordinance, as he would be liable personally. *Campbell v. Sherman,* 35 Wis. 103. It is evident that the damages might have been ascertained and recovered. *Allison v. Chandler,* 11 Mich. 542. On whatever ground the injunction might have been prayed for, the court acted correctly in refusing to issue the same.

J. McD.

LIBEL—PUBLICATION—WHEN MAILED COMMUNICATION IS PUBLISHED.—HUTH V. HUTH, 3 K. B. 32, 84 L. J. K. B. 1307.—*Held,* the fact that a written communication is sent through the mail in an unclosed envelope is not of itself evidence of publication, although in fact the contents were taken out and read by a servant in breach of duty.

The recognized general rule as laid down in *Roberts v. English Mfg. Co.,* 46 So. (Ala.) 752, is that sending through the mail is not evidence of publication unless the sender knew that a third party would read the

communication, or that knowledge of its contents would in the ordinary course of business be acquired by a third party. Accordingly the mere writing of a letter by the defendant and sending of it to the plaintiff only, does not constitute publication, *Penry v. Dozier,* 49 So. (Ala.) 909. But where it may reasonably be expected that an open communication, as a post card, will be seen and read by third parties, there the sending is of itself evidence of a publishing. This is agreed upon by English and American courts. G. Swinfen Eady, L. J., in the principal case, quoting *Sadgrove v. Hole,* 2 K. B. 1, 70 L. J. K. B. 455. *Logan v. Hodges,* 146 N. C. 38; 59 S. E. 349. The principal case, however, goes on to draw a distinction in regard to the unclosed envelope, considering it more nearly analogous to the sealed letter than to the postal card. This reasoning would seem open to question, especially in view of the modern postal distinction between sealed and unsealed matter. If there were not the implication that unsealed letters were likely to be read, as in the case of post cards, there would be no reason for paying first-class mail matter rates to obtain the privacy resulting from sealing.

C. B.

LICENSES—ORDINANCES—CONSTRUCTION.—MCDONALD V. CITY OF PARAGOULD, 179 S. W. (ARK.) 335.—*Held,* an ordinance requiring the payment of a license fee by operators of vehicles "for transportation of passengers within the city limits" does not apply to the transportation of passengers from points within to points outside the city, and vice versa. Kirby, J., *dissenting.*

In construing similar acts, courts have held they do not apply to vehicles *passing through* the city, or affect those who haul goods from another city wherein they are licensed. *Bennett v. Borough of Birmingham,* 31 Pa. St. 15; *City of East St. Louis v. Bux,* 43 Ill. App. 276. But that part of the business carried on within the municipality is taxable. *Morristown-Madison Auto Bus Co. v. Borough of Madison,* 85 N. J. L. 59 (dictum). Such a tax was held valid against those who came to the city in wagons every day and sold goods therein. *Wonner v. City of Cartersville,* 125 S. W. (Mo.) 861. On facts precisely similar to those of the principal case, other courts have reached a contrary conclusion. *City of Cartersville v. Blytone,* 141 S. W. (Mo.) 701; *City of Sacramento v. The California Stage Co.,* 12 Cal. 134. There seems to be a direct conflict in the cases on the point involved, the decisions depending on those extrinsic facts upon which the court lays stress. The courts which emphasize the inadvisability of double taxation construe these statutes strictly; the others, looking to the reason for the imposition of the tax (use of city streets, etc.), construe them more liberally.

L. S.

LIFE ESTATES—INJURY BY STRANGER—EXTENT AND GROUND OF RECOVERY. —ROGERS V. ATLANTIC G. & P. CO., 107 N. E. (N. Y.) 661.—*Held,* life tenant may recover for injury by negligence of a stranger not only to the life estate but also to the remainder, on the theory of trusteeship.

A number of states allow the life tenant to bring trespass, and the reversioner to bring case. *Burnett v. Thompson,* 51 N. C. 210; *Bentonville*